

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KENNETH EVANS,

§

Plaintiff,

§

VS.

§

CIVIL ACTION H-11-4498

§

OLD DOMINION FREIGHT LINE, INC., §

§

Defendant.

§

OPINION AND ORDER

Pending before the Court in the above referenced cause is Defendant's motion to reconsider and modify order on remand [dated January 19, 2012] (instrument #5).

Defendant asserts that Plaintiff "misinformed the court that [Plaintiff's motion to remand] was unopposed."

"It is axiomatic that remanding a case to state court terminates the jurisdiction of a . . . district court over that case." *Browning v. Navarro*, 73 F.2d 1069, 1078 (5th Cir. 1984). "Even a federal court, persuaded that it has issued an erroneous remand order, cannot vacate that order once entered. *Id.* "'Once a district court has decided to remand a case and has so notified the state court, the district judge is without power to take any further action.'" *Id.* at 1078-79, citing 28 U.S.C. § 1447(c), quoting *Federal Deposit Insurance Corp. v. Santiago Plaza*, 598 F.2d 634, 636 (1st Cir. 1979). See also *Arnold v. Garlock, Inc.*, 278 F.3d 426, 437-38 (5th Cir. 2001).

Accordingly Plaintiff's motion to reconsider (#5) is MOOT.

SIGNED at Houston, Texas, this 31st day of January, 2012.

Melinda Harmon
MELINDA HARMON
UNITED STATES DISTRICT JUDGE